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ABSTRACT

The Office of Education's system for determining institutional eligibility for access to Federal funds derives from a series of 13 specific statutory mandates. It uses HEGIS (Eigher Education General Information Survey form #2300-1), that provides basic institutional characteristics information, which together with catalogs and other materials, provide information to help make initial eligibility decisions. Educational institutions may establish eligibility to apply for participation in the Federal financial aid programs by meeting the pertinent statutory requirements. Institutional eligibility is subject to termination whenever an institution is found not to be in compliance with one of the eligibility elements. Twenty-nine different agencies and audiences are known to utilize eligibility determinations and assessments made by the Office of Education. Although the Office of Education stresses that institutional eligibility for Federal funding does not insure quality education, the consumer and the taxpayer appear to assume that the institutions which the Government has deemed eligible for Federal assistance have been appropriately evaluated and meet at least minimum. levels of operational performance and quality. (Author/KE)

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THE FEDERAL ELIGIBILITY SYSTEM

AS ADMINISTERED BY THE

OFFICE OF EDUCATION

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NATIONAL INSTITUTE OF EDUCATION
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ACCREDITATION AND INSTITUTIONAL
ELIGIBILITY STAFF

OFFICE OF EDUCATION

April 7, 1975

HE007121

STATUTORY AUTHORITY

The Office of Education's system for determining institutional eligibility for access to Federal funds derives from a series of 13 specific statutory mandates, passed over the last 20 years (see attached list). Some of the laws have been amended and reamended, providing as many as ten or more interrelated eligibility institutions and programs, thereby, adding to the complexity of the statutory qualifications for funding eligibility.

However, one can discern a basic common denominator or pattern of eligibility emerging from these various enactments, as noted in the attached eligibility chart. Briefly, the chart relates seven or more basic and distinct component elements of eligibility which must be considered in making an eligibility assessment or determination. These elements include: Admissions; State legal authorization; Program offerings and duration; Governance or Control; Accreditation, or its alternative. In addition, there are two "extrinsic" but universal requirements as to possible institutional exclusion from programs on religious or sectarian worship grounds, plus the affirmative requirement of Civil Rights compliance. Furthermore, the 1974 "Buckley Amendment" now adds the requirement of compliance with educational records access and transfer-release standards pursuant to the Family Educational Rights and Privacy Act of 1974.

The five primary eligibility elements noted above, with minor variations, reflect minimum standards which define institutions in five broad categories:

-- Institutions of higher education;

-- proprietary institutions of higher education;

-- vocational schools;

-- public area vocational schools; and

-- hospital schools of nursing.

The largest single category providing access to the widest range of Federal education aid is that of "institution of higher education," the definition of which focuses upon these eligibility elements:

1) ADMISSIONS: "admits as regular students only high school graduates or equivalent;"

Variations quickly arise regarding vocational schools, which can admit persons who have completed or left elementary or secondary school; also, eligibility complexities are generated by those community/junior colleges which actually practice "open door" admissions by affording access to students beyond a minimum age (e.g. 18 years) -- thereby, producing contradictions with the statutory language above.

2) AUTHORIZATION: "is legally authorized (by its State to provide programs of postsecondary education;"

3) PROGRAMS: These can vary from programs leading to baccalaureate (or higher) degrees to two-year associate degrees, to include one year or six month programs which lead to gainful employment in recognized occupations;

4) GOVERNANCE: The usual types of control considered are: public, private nonprofit, and private-for-profit, or proprietary; "nonprofit" is defined as being chartered on a nonprofit basis, plus achievement of IRS certification as a nonprofit entity.

5) ACCREDITATION: The qualitative assessment of an institution or program traditionally has been determined in American education by private, nongovernmental accrediting commissions linked to educational associations. In accordance with pertinent Federal statutes, accrediting commissions which have met specific recognition criteria established by the Commissioner of Education have their accrediting rulings utilized for purposes of Federal funding eligibility. In addition to attaining accredited or preaccredited status with a nationally recognized accrediting commission, the following alternatives to meeting the accreditation requirement have been legislatively prescribed:

   a) achievement of three institutional certifications of transfer of students and credits to three accredited colleges;

   b) interim approval by the Commissioner's Advisory Committee on Accreditation and Institutional Eligibility for categories of schools which lack access to a nationally recognized accrediting agency; this has produced interim recognition of certain schools approved by State procedures in 18 States;

c) Specific State Agency approval:

1) Under the Nurse Training Act - 8 States;

2) Under the "Mondale Amendment" for purposes of certain student financial aid programs - 12 States; .

d) By a Commissioner's determination of "satisfactory assurance" of accreditation, via a procedure recently implemented under the Higher Education Act of 1965.

Thus, it seems clear that accreditation is not tantamount to, or synonymous with, institutional eligibility for funding. While the accreditation-eligibility element may be relatively laborious, expensive, and time consuming, it is only one of the range of eligibility factors imposed by law which must be satisfied. In addition, it should be recalled that these eligibility elements comprise only the first echelon of requirements which must be considered, since individual funding programs also impose their own specific, substantive eligibility requirements through regulation, after the initial steps have been met.

THE ELIGIBILITY SYSTEM IN OPERATION

In implementing the eligibility system, the Office uses the HEGIS (Higher Education General Information Survey form #2300-1) for conventional institutions of higher education; and OE form 1059, application for institutional eligibility for all other institutions. These forms provide basic institutional characteristic information, which, together with catalogs and other materials, provide information to help make initial eligibility decisions. In many instances, such information is cross-checked with State approval and licensing agencies, and with nationally recognized accrediting agencies and associations to verify accuracy. A high percentage of error is found in the information provided on these forms.

Primarily, the USOE eligibility system focuses upon the seven fundamental eligibility elements cited above (admissions, authorization, programs, control, accreditation), nonreligious status and Civil Rights compliance. Specific other data also are assembled and assessed with respect to categories of schools such as proprietary institutions; flight schools (where both FAA and VA certification approvals are required); and in addition, for unaccredited institutions, financial reports also may be obtained.

Eligibility Procedural Steps

Educational institutions may establish eligibility to apply for participation in the Federal financial aid programs provided through current legislation by meeting the pertinent statutory requirements. These requiremens differ in some respects from program to program, but institutions fulfilling the legislated requirements defining an "institution of higher education" usually are able to qualify for most of the pertinent programs administered by the Office of Education.

A postsecondary educational institution seeking to establish its eligibility for program participation is required to supply evidence for review in order to determine whether or not it meets the requisites of the particular program for which it is applying. In general, the following procedure is followed:

1) The institution asks the Office of Education for information and application forms to determine its eligibility to apply for program participation; Accreditation and Institutional Eligibility Staff (AIE Staff)

2) The Office of Education supplies guidelines, attachments and application forms (HEGIS or OE #1059) plus Civil Rights compliance forms;

3) The institution returns the completed forms, plus copies of its catalog;

4) The AIE Staff reviews the information to discover whether the institution qualifies under the statutory definitions, including necessary Civil Rights compliance;

5) When institutional eligibility status is confirmed, the AIE Staff, acting for the Commissioner, issues a certificate of eligibility listing those Federal programs and titles to which the institution may apply; the original notice is sent to the institution, plus copies to the OE program offices and units.

The initial determination of institutional eligibility is merely the first echelon, or first phase, of threshold eligibility, wherein institutions are certified to be eligible to apply for program participation. On the basis of such certification, institutions then are directly in touch with individual funding program administrators, who frequently require further information, proposal data, and other eligibility requisites which also must be met.

Termination of Eligibility

Institutional eligibility is subject to termination whenever an institution is found not to be in compliance with one of the eligibility elements. Past experience indicates that in the public and nonprofit school sector, withdrawal of accredited status is the major source of such actions (usually produced by school closures at the end of an academic year or other period), while among proprietary schools, a larger number of actions stem from changes in ownership and control.

Once an institution's failure to meet a statutory eligibility requirement is established, the following steps are taken:

1. AIE Staff notifies the institution directly, via certified mail, of the information on which termination action is being taken, effective as of the date of the letter.

2. Program Directors, Regional Offices and Guarantee Agencies for the GSLP are provided with a copy of the above letter, which is stamped "Eligibility Termination - Important - Action Required."

A new "suspension, limitation and termination" procedure now is being developed with regard to the Guaranteed Student Loan Program (only) for which regulations recently were published to implement the Commissioner's statutory authority to limit, suspend, or terminate an institution's eligibility to participate in the GSLP, notwithstanding meeting the basic legislated qualifications. The procedure includes provision for opportunity for a hearing and appeal, but it enables the Commissioner, operating through designated officials, to suspend an institution's program eligibility without notice for a short time; or, after giving notice, to suspend eligibility up to 60 days; or to limit the institution's participation as to number or volume of loans, for cause, and after notice and hearing; and ultimately, the Commissioner may terminate an institution's eligibility for cause, after notice and a hearing, which includes provisions for an appeal. These new procedures are being implemented as the new regulations become effective in April or May 1975.

OFFICE OF EDUCATION ELIGIBILITY SERVICE
TO OTHER AGENCIES AND GROUPS

The attached partial listing of agencies and organizations cites 29 different agencies and audiences that are known to utilize eligibility determinations and assessments made by the Office of Education. The extent of their reliance includes:

A. Individual Institutional Determinations:

To serve the needs of the National Institutes of Health, the Justice Department's Immigration and Naturalization Service, the Department of Housing and Urban Development, the Federal Trade Commission's inquiries into "spurious degrees," the Federal Postal Service's mail fraud actions, individual institutions and programs are reviewed and specific eligibility determinations are issued.

B. Lists of Eligible Institutions:

Listings of institutions determined to be eligible for various Office of Education programs are supplied to other Federal agencies, through publications, mail correspondence and telephone responses. Among such activities assisted are the Guaranteed Student Loan Program, including its administrators, Federal and State agencies, lenders and guarantee organizations; others include the Department of Defense, Federal Aviation Administration, Veterans Administration, Social Security Administration, U.S. Civil Service Commission and other organizations as noted in the attachment.

c. Directory Publications:

In addition, lists of institutions eligible for entry in official publications are provided for various USOE documents, such as the Education Directory: Higher Education, Accredited Postsecondary Institutions, Vocational Education Directory, and Directory of Accredited Postsecondary Institutions and Programs.

For example, within the Department of Defense, use of the Higher Education Directory is known to encompass all of the uniformed military services (plus the US Coast Guard) for such purposes as: early release from

service for educational reasons; admission to the Chaplaincy Corps, Nurse Corps and other specialized branches; numerous education credits awarded by the training commands, and for administration of educational benefits and services, on a world-wide basis. Use of the Directory is supplemented on a continuing basis by mail and telephone inquiries.

OFFICE OF EDUCATION USE OF OTHER AGENCIES, FEDERAL, STATE, AND PRIVATE IN ITS ELIGIBILITY DETERMINATIONS

In making its eligibility decisions, the Office of Education calls upon and relies upon, many resources outside of itself. Pertinent statutes require that an institution must be accredited by a recognized accrediting agency, or association, before it may be declared eligible for participation in Federally funded educational programs. The Office of Education has recognized 63 such agencies, and is considering additional ones which have requested recognition. If no accrediting agency exists for a particular type of institution, the Office calls upon an advisory committee, or upon other organizations for assistance, such as State approval agencies. These agencies are becoming increasingly important as the OE intensifies its efforts to protect the educational consumer.

In the private sector, in addition to the 63 accrediting agencies, the Office enlists the help of organizations such as the Council on Postsecondary Accreditation, the Institute of International Education, and similar organizations. It calls upon embassies for information about foreign schools in determining their eligibility for participation in programs such as the Federally Insured Student Loan Program.

Since an unaccredited non-profit collegiate institution can be declared eligible if three accredited schools will accept its credits for student transfer, the Office calls upon registrars of accredited institutions for information about the credits they will accept from unaccredited schools.

At the State level, in addition to the State approval agencies already mentioned, the Office relies upon actions taken by State licensure and charter offices, by State Departments of Education, by State Boards of Regents, and by State Boards in specialities such as Cosmetology or Nursing.

At the Federal level, the Office cooperates with the Federal Aviation Administration in evaluating flight schools for eligibility purposes. It cooperates with the Veterans Administration and its State approval agencies. It calls upon the Department of State for information about foreign institutions. It has used the services of the Department of Housing and Urban Development in assessing institutional financial stability.

In its efforts to safeguard the educational consumer, the Office of Education cooperates with the Office of Consumer Affairs, the U.S. Postal Service, the Federal Trade Commission, and the Justice Department. Finally, the Accreditation and Institutional Eligibility Staff of the Office of Education served as the lead agency in the preparation of a report by a subcommittee of the Federal Interagency on Education entitled Toward a Federal Strategy for Protection of the Consumer of Education.

THE INCREASING IMPORTANCE OF THE EVALUATIVE FUNCTION AND PROCESS IN ELIGIBILITY DETERMINATIONS

The need for evaluating educational offerings is basic. The classic example is the Flexner study, which in the early 1900's convinced both the public and the medical profession of the need for reform in medical education. So significant were the findings of the Flexner study, that many medical schools closed in its wake, and a system of evaluation was quickly developed to continue the evaluative process which was begun in the report. The situation which prompted the Flexner study is not unlike that which confronts the Office today, given the diverse universe of postsecondary educational institutions and activities, where there is a growing scope and range of consumer complaints and abuses of Federal funding programs, requiring a more penetrating evaluation of institutions and programs participating in Federal programs. Indeed, contrary to a body of opinion which believes that the present system for establishing eligibility for Federal programs is overly complex, cumbersome, and discriminatory, the situation is one in which there are clear and evident deficiencies which call for immediate correction.

Educational institutions or programs in this country are all subject to the States in which they are located, or in which they do business. When institutions or programs apply for eligibility for various Federal funding programs of assistance to education, they are subject to the eligibility requirements of each funding program, and, in some instances, to additional administrative requirements for each program, such as the proposed Guaranteed Student Loan Program regulations. For the large majority of institutions and programs participating in the postsecondary funding programs administered by the Office of Education, accreditation is the key eligibility factor.

The triad of State, Federal, and accreditation oversight is by necessity a complementary one. The ideal State, such as envisioned by the Education Commission of the States in its proposed model legislation for approval of private postsecondary educational institutions, sets forth minimum standards which include the institution's ability to enable students to reach its educational objectives, and assurance that it has

the means of doing so. Such standards also encompass adequate, fair, and accurate information for prospective students in regard to the objectives, costs, and conditions involved. They require not only truth in advertising, but also disclosure of relevant information. The major emphasis is to provide a minimal floor for protection of the public. In current reality, the States are not varying levels of sophistication in approving educational institutions or programs, and even if all States were performing at the optimum level, there would still be variance among the States in interpreting and enforcing requirements. Federal regulations, such as the proposed FISLP regulations, primarily require the keeping of records and reports for the purpose of efficient program administration, although the FISL regulations also require the maintenance of a reasonable refund policy and the provision of basic, statistical data to the student. Accrediting agencies do not have the regulatory function inherent in State and Federal program regulation. However, they provide a depth and consistency to the evaluative process which is not present to any great degree in Federal or State regulations, and their judgments are relied upon by Federal and State authorities. Covering a wider geographic area than that of a single State, such agencies have direct access to educational expertise on a national or regional basis. This ensures against provincialism and facilitates the free movement among the States of students, faculty, and graduates in the various professions. Also, far more than establishing a minimal base of quality, such as would be accomplished by good State regulations, accrediting standards are designed to foster constant educational improvement. Removal of the special evaluative services provided by accreditation, or the failure of any part of the Federal, State, accreditation triad to function in an optimal manner, leaves our loosely-constructed educational system vulnerable to various kinds of entrepreneurial and educational abuses.

CONSEQUENCES OF THE ABSENCE OF THE EVALUATIVE FACTOR FROM THE ELIGIBILITY SYSTEM

The educational consumer and the taxpayer expect the Federal Government to invest the public funds wisely. Although the Office of Education has stressed that institutional eligibility for Federal funding does not insure quality education, the consumer and the taxpayer appear to assume that institutions which the Government has deemed eligible for Federal assistance have been appropriately evaluated and meet at least minimum levels of operational performance and quality.

The student who invests in an institution with the Government's stamp of approval expects that the training offered by that institution will help him to achieve his particular goals; he needs assurance that the educational program of the school is current and that its faculty are qualified. He wants to know that the school is financially stable

and that its facilities and equipment are adequate and appropriate for the goals of the institution. The public expects that schools for health professionals, engineers, architects, and technicians produce graduates who are competent to protect the health and safety of the public. Any system which determines eligibility on the basis of quantitative data or single-purpose indicators, and excludes the evaluative process, fails to provide these assurances to the public.

Whenever the evaluative process is absent from or deficient in, any one of the three components of the eligibility system -- State regulations, accreditation, and Federal program requirements -- one consequence is the exposure of the public to a variety of educational consumer frauds.

The States, for example, play a critical role in attesting to an institution's ability to function as a bona-fide institution. In States where there is no mechanism to evaluate school facilities, advertising, and financial stability, the public is particularly easy prey to dishonest school operators. Even in States where there are licensing requirements, some institutions which are very similar to degree mills flourish. These schools are able to meet the minimal licensing requirements, but provide education of dubious quality. As it becomes more difficult to distinguish between nontraditional educational institutions and quasi-legitimate enterprises, it is evident that the evaluative apparatus of many States is not adequate to guarantee the public that it is spending its money for quality education. The need for additional concurrent but independent judgments is required.

Even when State approval systems do contain an adequate evaluative mechanism, they may fail to stimulate institutions to improve beyond minimally acceptable levels of performance. Accreditation has traditionally been relied upon to perform this function. Evaluation in the accreditation process is partly a matter of institutional or program self-evaluation, which requires the institution to identify and correct its deficiencies. Self evaluation, which is an element not usually found in the State approval process, places considerable responsibility for improvement upon the institutions or programs, thenselves. Accreditation also provides for evaluation according to one set of national standards. Employers and students can thus make judgments on the basis of a school's compliance with one, rather than 50 sets of standards.

Elimination or reduction of the evaluative function from the eligibility system would mislead the public, who rely upon the Government to provide access to minimally acceptable education. It leads eventually to frauds and the waste of public funds. It also permits institutions, which also reap the benefits of public funding, to shirk responsibility for the improvement of their educational programs.

In response to the increasing awareness of educational abuses, there have been recent measures to shore up the evaluative functions within each facet of the Federal, State, accreditation triad. As mentioned previously, the Education Commission of the States has developed proposed model legislation for approval of the private postsecondary educational institutions, which contain standards relevant to the attainment of educational objectives, truth in advertising, and the disclosure of certain basic data. It should be noted also, that the model legislation affords recognition to the significance of private accreditation, and permits State agencies to accept the determinations of the accrediting agencies listed by the U.S. Commissioner of Education, provided that the State agency may make any further necessary investigations as in its judgment may be necessary. On the Federal side, the proposed Federal Insured Student Loan Program Regulations require such evaluative techniques as the assessment of a prospective student's ability to benefit from a course of study prior to his enrollment, and establish requirements for the evaluation of a participating institution's financial status. Accrediting agencies which desire recognition, or continuation of recognition, by the Commissioner of Education must demonstrate compliance with the revised Criteria for Nationally Recognized Accrediting Agencies and Associations, published on August 20, 1974, which contain such new elements as: consideration of the rights, responsibilities, and interests of students, the general public, the academic, professional or occupational fields involved, and institutions; securing of information which demonstrates that the institutions or program conducts an on-going program of evaluation of educational outputs; and maintenance of a program of validity and reliability of educational standards. The various agencies sponsoring the Federal Interagency Committee on Education have participated actively on the Committee's Subcommittee on Educational Consumer Protection, which recently developed a report on Toward a Federal Strategy for Protection of the Consumer of Education. The report gives recognition to the usefulness of each facet of the Federal, State, accreditation triad, and recommends ways for improvement of the system, including improved cooperation of the various components within it.